

**COURT OF COMMON PLEAS  
FOR THE STATE OF DELAWARE**  
KENT COUNTY COURTHOUSE  
38 THE GREEN  
DOVER, DELAWARE 19901  
PHONE: (302) 735-3910

CHARLES W. WELCH, III  
JUDGE

August 13, 2018

Ms. Addineka C. Guthrie  
298 Waterway Drive  
Frederica, DE 19946

Mr. Shane A. Cole  
265 Burnsford Avenue  
Bridgeport, CT 06606

RE: In the matter of Adrian Shane Cole  
Civil Action No.: CPU5-18-000146

**Decision on Petition for Name Change for Minor Child**

Dear Ms. Guthrie and Mr. Cole:

This matter involves a request for a name change of a minor child, Adrian Shane Cole ("Adrian"), pursuant to Chapter 59 of Title 10 of the Delaware Code. The petition for name change requests that Adrian's name be changed to Adrian Curtis Guthrie. The petition was filed by Adrian's natural mother, Addineka C. Guthrie, who is pursuing this name change on Adrian's behalf. The petition is contested by Adrian's natural father, Shane A. Cole. A hearing for this matter was held on July 13, 2018. At the conclusion of the hearing, the Court reserved decision. This correspondence constitutes the Court's decision. The petition is denied.

Through the testimony of the parties at the hearing, it was established that Ms. Guthrie and Mr. Cole are the natural parents of Adrian, who is seven years old.

Ms. Guthrie and Mr. Cole were married and living in Connecticut when Adrian was born. However, they divorced. At the custody hearing for Adrian in Connecticut, Ms. Guthrie and Mr. Cole were awarded joint legal custody of Adrian with primary placement with Ms. Guthrie.

Mr. Cole remained in regular contact with Adrian and paid child support while Adrian lived in Connecticut. However, Ms. Guthrie moved to New York to live with her parents. Once Adrian moved to New York with his mother, Mr. Cole had contact with Adrian. However, it was less frequent as Adrian lived over an hour away.

Ms. Guthrie moved to Delaware approximately three years ago and resides in Kent County. Mr. Cole has not seen Adrian for over two years now. While Ms. Guthrie testified that Mr. Cole has made little effort to stay in contact with Adrian, Mr. Cole testified that Ms. Guthrie has attempted to deny him access to Adrian. Mr. Cole testified that he and his family desire to have contact with Adrian if Ms. Guthrie would only make Adrian available.

Ms. Guthrie is currently paying Adrian's support. She testified that Delaware's Child Support Enforcement has been attempting to obtain child support payments from Mr. Cole without any success. Mr. Cole testified that he has been paying \$300.00 a month in child support for Adrian to the State of Connecticut. Neither party brought any documentation from either state concerning any child support orders or any payment thereon.

Ms. Guthrie has filed this petition for name change for Adrian, desiring to change his name to Adrian Curtis Guthrie. She believes that such a name change would be in

Adrian's best interests as it would identify him as part of her family unit. It is her contention that Mr. Cole is not a part of Adrian's life anymore as he has not been in contact with Adrian for over two years and is not paying any of Adrian's support.

Mr. Cole opposes the name change petition filed by Ms. Guthrie for Adrian. He contends that he would still be part of Adrian's life if it was not for Ms. Guthrie's attempts to deny access to Adrian. He also contends that he is paying child support for Adrian through Connecticut.

Ms. Guthrie attested to the procedural statutory requirements for a name change during her testimony. The petition was verified and duly noticed in the *Dover Post* pursuant to Delaware statute. *See* 10 *Del. C.* Ch. 59.

It is recognized by legal and psychiatric authorities that changing the surname of a child of divorced parents may contribute to the estrangement of the child from his or her non-custodial parent. *In re Gibbs*, 2008 WL 5160141, at \*3 (Del. Com. Pl.). The bond between the non-custodial parent and his children in circumstances such as this one, which is tenuous at best, may be weakened, if not destroyed, if their name is changed. *Id.* Therefore, "the court should not foster any unnatural barrier between the respondent and [his children]." *Id.* (internal quotation omitted).

The legal standard for change of name petitions for minors is whether the name change is in the best interests of the child. *In re Change of Name of Smith*, 2003 WL 23469571, at \*4 (Del. Com. Pl.). "Clearly what constitutes the 'best interests of the child' involves a factual analysis involving the relationship and family structure of the minor." *Id.* To determine if the best interests of the child would be served by granting a proposed name change, the Court considers the following ten factors:

1. A parent's failure to financially support the child;
2. A parent's failure to maintain contact with the child;
3. The length of time that a surname has been used for or by the child;
4. Misconduct by one of the child's parents;
5. Whether the proposed surname is different from the surname of the child's custodial parent;
6. The child's reasonable preference for a surname;
7. The effect of the change of the child's surname on the preservation and development of the child's relationship with each parent;
8. The degree of community respect associated with the child's present surname and proposed surname;
9. The difficulties, harassment or embarrassment that the child may experience from bearing the present or proposed name;
10. The identification of the child as a part of the family unit.

*Id.*

In considering the ten factors for determining whether the "best interests of the child" would be served by granting a proposed name change, the petitioner has the burden to prove by a preponderance of the evidence that the proposed name change is in the best interests of the child. The Court finds that Ms. Guthrie has failed to meet her burden of proof that changing Adrian's surname to Guthrie would be in Adrian's best interests as follows:

1. **A parent's failure to financially support the child.**

Although it is clear that Ms. Guthrie is currently paying Adrian's support, Ms. Guthrie was unable to prove that Mr. Cole is not paying support to Adrian through child support payments to the State of Connecticut. In this regard, the Court notes that neither party brought any documentation from either Delaware or Connecticut concerning child

support orders or any payment thereon. Therefore, the Court considers this factor to be neutral.

2. **A parent's failure to maintain contact with a child.**

While it was proven that Mr. Cole has not had contact with Adrian for over two years, sufficient evidence was presented to the Court that Mr. Cole desires to have contact with Adrian, but, Ms. Guthrie has attempted to discourage such contact.

Therefore, the Court considers this factor to be neutral.

3. **The length of time that a surname has been used by the child.**

Adrian has used his current surname of Cole for seven years. Therefore, this factor weighs in favor of denying Ms. Guthrie's petition and keeping Adrian's surname as Cole.

4. **Misconduct by one of the child's parents.**

There was no testimony provided as to any misconduct by any of the child's parents. Therefore, this factor is neutral.

5. **Whether the proposed surname is different from the surname of the child's custodial parent.**

Although Adrian lives with Ms. Guthrie, the Court notes that both parents still have joint custody of Adrian, with primary placement with Ms. Guthrie, pursuant to a Connecticut Family Court order. Therefore, the Court weighs this factor marginally in favor of granting Ms. Guthrie's petition for a name change.

6. **The child's reasonable preference for a surname.**

There was no evidence introduced concerning Adrian's preference for a surname. Therefore, this factor is neutral.

7. **The effect of the change of the child's surname on the preservation and development of the child's relationship with each parent.**

This factor weighs in favor of denying the petition to change Adrian's surname from Cole to Guthrie. Evidence was introduced concerning the desire of Mr. Cole and his family to have contact with Adrian and Ms. Guthrie's attempts to discourage such contact. Changing Adrian's surname from Cole to Guthrie would be a detriment to his father's continued contact with Adrian and the preservation and development of Adrian's relationship with him.

8. **The degree of community respect associated with the child's present surname and prosed surname.**

There was no evidence introduced concerning the degree of community respect for the surnames in question. Therefore, this factor is neutral.

9. **The difficulties, harassment or embarrassment that the child may experience from bearing the present or proposed name.**

There was no evidence introduced concerning this factor. Therefore, this factor is neutral.

10. **The identification of the child as a part of the family unit.**

While Adrian resides with and is being raised by Ms. Guthrie and it is preferable to have a minor child be identified with the family unit raising him, the Court is concerned that the importance of such identification is overridden by the detriment on the preservation and development of Adrian's relationship with Mr. Cole and his family, if the name change is granted. Therefore, the Court weighs this factor as neutral.

In total, upon weighing all of the factors to be considered for a minor child's name change, the Court finds that Adrian's best interests will not be served by granting the proposed change of his surname from Cole to Guthrie. Therefore, the petition for

name change that has been filed on Adrian's behalf by Adrian's natural mother, Ms. Guthrie, is denied.

**IT IS SO ORDERED.**

Sincerely,

A handwritten signature in dark ink, appearing to read "Charles W. Welch, III". The signature is fluid and cursive, with the first name "Charles" being the most prominent.

Charles W. Welch, III

CWW:mek